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as the act was equivocal in its nature, declarations of the testator, both contemporaneous and subsequent, are admissible in evidence to show whether the testator intended to revoke the entire will. *Burton* v. *Wylde* (Ill.), 103 N. E. 976.

When a will, proved to have been duly executed, is kept in the testator's possession until his death, and afterwards found partly mutilated, the presumption is that the act was done by the testator *animo revocandi*. *McIntyre* v. *McIntyre,* 120 Ga. 67, 47 S. E. 501. And under the same circumstances, when the will cannot be found, it will be presumed that it was destroyed by the testator. *Ewin* v. *McIntyre,* 141 Mich. 506, 104 N. W. 787. When the instrument is partly mutilated, as in the principal case, declarations of the testator made at the time of the equivocal act may unquestionably be admitted in evidence as part of the *res gestæ*. *Law* v. *Law,* 83 Ala. 432, 3 So. 752. Or to show whether the destruction of a second will, which revoked the first, was intended to revive the first. *Blackett* v. *Zeigler,* 153 Ia. 344, 133 N. W. 901. There is some conflict as to the admissibility of declarations made so long afterwards that they do not constitute a part of the *res gestæ*. Clearly the majority rule is that such declarations are admissible, not to prove that there was, or was not, a revocation, but to show with what intent an ambiguous act of the testator was done. *Lawyer* v. *Smith,* 8 Mich. 411; *Patterson* v. *Hickey,* 32 Ga. 156; *Mangle* v. *Parker,* 75 N. H. 139, 71 Atl. 639, 24 L. R. A. (N. S.) 180. Although such evidence is, admittedly, untrustworthy, its weight is a question for the jury. *Patterson* v. *Hickey, supra.* A few courts have excluded the subsequent declarations of the testator, apparently on the authority of *Thockmorton* v. *Holt,* 190 U. S. 552, 21 Sup. Ct. 474. This case presents a different, though not a materially different set of facts, the question being whether a certain will was genuine. The court refused to admit statements made by the testator subsequent to the alleged execution of the will.

On much the same principle, when a will, kept in the testator's possession until his death, cannot be found, statements of the testator may be introduced to rebut the presumption of its destruction by the testator *animo revocandi* by showing his intention to adhere to the will. *Ewin* v. *McIntyre, supra; Jackson* v. *Hewlett,* 114 Va. 573, 77 S. E. 518; *Keen* v. *Keen,* L. R. 1 Prob. & Div. 105; *Sugden* v. *Lord St. Leonards,* L. R. 1 P. D. 154. *Contra, Matter of Kennedy,* 167 N. Y. 163, 60 N. E. 442.

WITNESSES—ACCESSORY AFTER THE FACT.—One who had witnessed the commission of a crime agreed with the defendant to conceal the facts and advised the defendant to leave the country. *Held,* such witness is an accomplice and his testimony needs corroboration. *Stevens* v. *State* (Ark.), 163 S. W. 778.

There is a conflict of authority as to whether an accessory after the fact is an accomplice. By the weight of authority, an accomplice is a person involved, either directly or indirectly, in the commission of the crime. He must in some manner participate in the criminal act. *People* v. *Smith,* 28 Hun (N. Y.), 626; *State* v. *Phillips,* 18 S. D. 1, 98 N. W. 171;

Levering v. *Commonwealth,* 132 Ky. 666, 117 S. W. 253. Some courts, however, as in the principal case, hold any person connected with the crime by unlawful act or omission transpiring either before, at the time of, or after the commission of the defense to be an accomplice. *Polk* v. *State,* 36 Ark. 126; *Pace* v. *State* (Tex.), 124 S. W. 949.

The reason for the rule requiring corroboration of an accomplice's testimony is the opportunity it affords such person of saving himself by procuring the conviction of others through his false testimony. 3 WIGMORE, EVIDENCE, § 2057. This reason would not seem to hold good in the case of an accessory after the fact, since he can gain nothing by securing the conviction of the defendant.

WITNESSES—PRIVILEGE FROM SELF-INCRIMINATION.—A witness in a criminal case was promised immunity from prosecution and punishment by the district attorney under authority of a statute. *Held,* the witness can be compelled to testify. *Ex parte Muncy* (Tex.), 163 S. W. 29. See NOTES, p. 620.

Statement of the ownership, management, circulation, etc., required by the Act of August 24, 1912, of VIRGINIA LAW REVIEW published once a month from October to May inclusively.

Editor: Clarence O. Amonette, University, Va.

Business Manager: Preston H. Bailey, University, Va.

Publishers: Virginia Law Review Ass'n, University, Va.

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